

Article - Estates and Trusts

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§3–405. NOT IN EFFECT

**** TAKES EFFECT OCTOBER 1, 2020 PER CHAPTER 435 OF 2019 ****

(a) The right of election of a surviving spouse:

- (1) Is personal to the surviving spouse;
- (2) Is not transferable; and
- (3) Cannot be exercised after the surviving spouse's death.

(b) Subject to subsection (c) of this section, if the surviving spouse is a minor or incapacitated within the meaning of § 17–101(c) of this article, the election may be exercised by:

(1) An order of the court having jurisdiction of the person or property of the minor or incapacitated person;

(2) A guardian of the property of the surviving spouse who has been specifically authorized to make the election by order of the court having supervision of the guardianship; or

(3) An agent designated by the surviving spouse under a power of attorney that specifically authorizes the agent to make the election.

(c) (1) Before a guardian of the property of the surviving spouse or an agent designated by the surviving spouse under a power of attorney may exercise a right of election under subsection (b) of this section, the guardian of the property or the agent shall deliver notice of the election to:

(i) All interested persons in the decedent's estate; and

(ii) All persons who would inherit from the surviving spouse under Subtitle 1 of this title if the surviving spouse died intestate and unmarried at the time the election is made.

(2) An exercise of a right of election under subsection (b) of this section is valid unless:

(i) Within 30 days following the delivery of notice of the election in accordance with paragraph (1) of this subsection, a person makes an objection to the election in the court in which the election was filed; and

(ii) Following a hearing on that objection, the court rules that the election is not in the best interests of the surviving spouse.

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